IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY EIGHTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 892 of 2005

Between:

Ketamreddy Narendra Reddy, S/o.Gopal Reddy, Age:32 Yrs., Occ:Fair Price Shop Dealer, Thinnelapudi village, Kota Mandal, Nellore Dist.

..... PETITIONER

AND

1. The Joint Collector, Nellore District, Nellore.
2. The Revenue Divisional Officer, Gudur, Nellore District.
3. The Mandal Revenue Officer, Kota Mandal, Nellore Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, direction, order or orders more particularly one in the nature of Writ of Mandamus calling for the records pertaining to impugned order in Rc. C. 3481/2004 dt. 01-01-2005 and declare the same as illegal, arbitrary, malafide and contrary to the rules and violative of principles of natures justice and consequently quash the same in the interest of justice.

Counsel for the Petitioner: MR.A.CHANDRAIH NAIDU

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following ORDER:

The authorization of the petitioner as a fair price shop dealer was cancelled by the second respondent, through his order dated 01.01.2005. The petitioner filed an appeal before the first respondent against the same, together with an application for grant of stay. His grievance is that the first respondent has not passed any orders in the stay application so far and seeks appropriate directions in this regard.

Learned counsel for the petitioner had addressed elaborate arguments touching the merits of the matter. He has also drawn the attention of this Court to the orders passed in W.P.No.22597 of 2004 as well as the developments that have taken place pursuant to the orders of this Court. He submits that there are absolutely no bona fides on the part of the second respondent in passing the impugned order.

Learned Government Pleader for Civil Supplies, on the other hand, submits that once the authorization is cancelled, it is impermissible to enable the same dealer to function and the petitioner has to await the outcome of the appeal.

Though the learned counsel for the petitioner had submitted elaborate

arguments touching the merits, this Court is not inclined to delve into the same, at this stage. The petitioner had availed the remedy of appeal against the order of cancellation.

Even assuming that there was any undue delay on the part of the first respondent in disposing of the application for stay, this Court is of the view that the situation obtaining in respect of the applications for stay in the appeals preferred against the orders of appointment or cancellation of appointment cannot be compared with those in which, orders of suspension are challenged. The appellant in an appeal challenging the order of cancellation on appointment cannot be permitted to function, unless the very appeal is disposed of.

Hence, the writ petition is disposed of directing that the first respondent shall pass appropriate orders in the appeal preferred by the petitioner within a period of six weeks from the date of receipt of a copy of this order. The second respondent shall not appoint any person as a regular dealer in the place of the petitioner till the disposal of the appeal. There shall be no order as to costs.

28.01.2005

Note:

Issue CC in three days.

(BO)

ksld

To

1. The Joint Collector, Nellore District, Nellore.
2. The Revenue Divisional Officer, Gudur, Nellore District.
3. The Mandal Revenue Officer, Kota Mandal, Nellore Dist.
4. Two C.Cs. to the Government Pleader for Civil Supplies, High Court of A.P., Hyderabad, (OUT).
5. Two C.D. Copies.